IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 5807 OF 1998.

Capital Market Publishers India Ltd.
(original incorporated under "Investwel Publishers Pvt.Ltd.") a company incorporated under the Indian Companies Act, 1956 (1 of 1956) and having its registered office at 401, Swastik Chambers, Umarshi Bappa Chowk, Sion Trombay Road, Chembur, Mumbai 400 071. ... Plaintiff.

Versus.

Yogi Pharmacy Ltd.,
a company incorporated under the Indian Companies Act, 1956 (1 of 1956) and having its registered office at "Yogi House", P.O.Gurukul Kangri Hardwar 249 404 and Corporate office at E-300, 1st floor, Greater Kailash-II, New Delhi 110 048. ... Defendant.

Shri Clive D'Souza for the Plaintiff.

None for the Defendant.

CORAM : ABHAY S.OKA, J.

DATED : 2nd August, 2007.

ORAL JUDGMENT.:

1. The suit is listed under the caption of "Undefended Suits for Exparte Decree". The learned Counsel appearing for the Plaintiff has tendered on record the affidavit of Shri Savio Moses Fernandes, Assistant Manager-Administration of the Plaintiff, who has been authorised by the Plaintiff to file the affidavit. The said affidavit is marked "X" for identification and is taken on record. The learned Counsel has also tendered on record 7 documents along with a list. The documents along with the list are

taken on record and marked "Y" (Collectively) for identification.

2. The case of the Plaintiff is that the Defendant by their release order dated 14th November 1995 placed an advertisement in the issue of "Capital Market" dated 20th November 1995 published by the Plaintiff. Accordingly the advertisement was published by the Plaintiff and the Plaintiff raised invoice dated 20th November 1998 for the sum of Rs.52,500/-. The original release order is placed on record. The office copy of the invoice is also placed on record.

3. Though repeated requests were made by the Plaintiff to the Defendant to pay the said amount, there was no response from the Defendant. By letter dated 19th April 1996, the Plaintiff called upon the Defendant to pay the amount. However, there was no response from the Defendant. Another letter was sent by the Plaintiff on 12th June 1996 to the Defendant. As the amount was not paid, by Advocate’s notice dated 31st August 1997, the Plaintiff called upon the Defendant to pay the outstanding amount with interest at the rate of 18% per annum.

4. The claim of the Plaintiff in the suit has been duly proved by the affidavit of said Shri Savio Moses

Fernandes. The documents placed on record are also proved by the said affidavit. The Plaintiffs have made out a case for passing a decree. In so far as further interest is concerned, there is no specific agreement between the parties for payment of interest on the unpaid amount at any specific rate. Considering the facts and circumstances of the case, the interest from the date of the suit will have to be awarded at the rate of 9% per annum.

5. Hence there will be a decree in terms of prayer clauses (a) and (b) with modification that the interest payable on the sum of Rs.52,500/- will be at the rate of 9% per annum from the date of institution of the suit till payment or realisation.

6. The Plaintiff will be entitled to refund of Court fees, if any, as per the Rules.

7. Certified copy is expedited.

Judge.